UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/799,908	03/12/2004	Robert H. Dahla	CB-12	8300	
	7590 11/06/200 E CORPORATION	9	EXAMINER		
ATTN: Matthew Scheele			WITCZAK, CATHERINE		
7500 Rialto Boulevard Building Two, Suite 100			ART UNIT	PAPER NUMBER	
Austin, TX 78735-8532			3767		
			NOTIFICATION DATE	DELIVERY MODE	
			11/06/2009	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

intel_prop@arthrocare.com

	Application No.	Applicant(s)					
Office Action Comments	10/799,908	DAHLA ET AL.					
Office Action Summary	Examiner	Art Unit					
	CATHERINE N. WITCZAK	3767					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 66(a). In no event, however, may a reply be tin rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	I. ely filed the mailing date of this communication O (35 U.S.C. § 133).					
Status							
1)⊠ Responsive to communication(s) filed on <u>31 Au</u>	iaust 2009.						
, <u> </u>	action is non-final.						
·=	, 						
,—	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims							
4)⊠ Claim(s) <u>1-20</u> is/are pending in the application.							
	4a) Of the above claim(s) <u>20</u> is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.	^						
6)⊠ Claim(s) <u>1-19</u> is/are rejected.	· · · · · · · · · · · · · · · · · · ·						
7) Claim(s) is/are objected to.							
Application Papers							
9)☐ The specification is objected to by the Examiner.							
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign	priority under 35 H.S.C. 8 119(a)	-(d) or (f)					
a) ☐ All b) ☐ Some * c) ☐ None of:	priority under 33 0.3.0. § 113(a)	-(u) or (i).					
1. Certified copies of the priority documents	s have been received						
2. Certified copies of the priority documents		on No					
3. Copies of the certified copies of the prior							
application from the International Bureau	•	a in this National Stage					
* See the attached detailed Office action for a list of	• • • • • • • • • • • • • • • • • • • •	d					
God the attached detailed emice deticition a list of	or the continue copies for receive	G.					
Attachment(s)	4) There is a 2 c	(DTO 442)					
Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) ∐ Interview Summary Paper No(s)/Mail Da						
3) X Information Disclosure Statement(s) (PTO/SB/08)	5) 🔲 Notice of Informal P						
Paper No(s)/Mail Date <u>4/27/09; 8/31/09</u> .	6)						

Application/Control Number: 10/799,908 Page 2

Art Unit: 3767

DETAILED ACTION

Election/Restrictions

Claim 20 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/31/2009.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Cucin (US 6,346,107).

Cucin discloses in Figure 13A-D a probe comprising a shaft (2); an electrode assembly disposed on the shaft, the electrode assembly having an electrically insulating support (17) and at least one active electrode terminal (4 and 5) having an electrode lumen and arranged on a treatment surface (top proximal surface of 17) of the support; the active electrode terminal comprising a substantially cylindrical body having a suction opening (14) longitudinally formed therein, and a laterally oriented port/window (8A-D) defining a slit on the wall of the body; a vacuum source (not shown – via 15); and a first region (8A-D) and a second region (spaces between 8A-D) which promotes the generation of plasma.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE N. WITCZAK whose telephone number is (571)272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/799,908

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application

Page 4

Information Retrieval (PAIR) system. Status information for published applications may be obtained

from either Private PAIR or Public PAIR. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer

Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR

CANADA) or 571-272-1000.

/Catherine N Witczak/

Examiner, Art Unit 3767

/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767